

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHER DISTRICT OF ILLINOIS
EASTERN DIVISION**

Alvin Fields, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Case No. 1:07-cv-6894
)	Judge Joan H. Lefkow
Lyon Workspace Products, LLC, et al.,)	
)	
Defendants.)	Jury Trial Demanded

**PLAINTIFFS' MOTION TO DISMISS
DEFENDANTS' COUNTERCLAIM FOR LACK
OF SUBJECT MATTER JURISDICTION, OR, IN THE
ALTERNATIVE, FOR FAILURE TO STATE A CLAIM**

Plaintiffs, through counsel, respectfully request pursuant to Federal Rule of Civil Procedure 12(b)(1) that the Court dismiss Defendants' Counterclaim for lack of subject matter jurisdiction under section 502(a)(3) of ERISA, 29 U.S.C. § 1132(a)(3), or, in the alternative, for failure to state a claim pursuant to Rule 12(b)(6). The grounds for this motion are more fully set forth in the accompanying memorandum in support.

Respectfully submitted,

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Dated: March 21, 2008

CERTIFICATE OF SERVICE

Stephen A. Yokich, an attorney, hereby certifies that on March 21, 2008, he caused the foregoing **Plaintiffs' Motion To Dismiss Defendants' Counterclaim for Lack of Subject Matter Jurisdiction, or, in the Alternative, for Failure To State a Claim** to be filed electronically with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

Mark E. Schmidtke, Esq.
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and further certifies that on March 21, 2008, he caused the same document to be served upon the following nonregistered participants by U.S. Mail, first-class postage prepaid and addressed as shown below:

None.

/s/ Stephen A. Yokich
Stephen A. Yokich